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IN THE
COURT OF APPEALS OF INDIANA

TRACY L. LLOYD,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 35A04-0607-CR-366
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE HUNTINGTON CIRCUIT COURT
The Honorable Thomas M. Hakes, Judge Pro Tempore
Cause No. 35C01-0512-FB-88

January 10, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Judge

Appellant-defendant Tracy L. Lloyd appeals his sentence for Robbery, a class B felony.[1] Specifically, Lloyd argues that his sentence is inappropriate in light of the nature of the offense and his character. Finding no error, we affirm the judgment of the trial court.

FACTS

On December 22, 2005, Lloyd entered State Bank of Markle in Warren and approached a teller to inquire about opening a new savings account. After obtaining the requested information, Lloyd approached a different teller, placed a handgun on the counter, and demanded money. The bank teller handed him $1,320, and he exited the bank.

On January 3, 2006, Lloyd was charged with class B felony robbery. On March 27, 2006, Lloyd entered into a written plea agreement with the State whereby he agreed to plead guilty as charged and the executed portion of the sentence would not exceed ten years. At the May 15, 2006, sentencing hearing, the trial court found that Lloyd's prior misdemeanor conversion conviction was an aggravating circumstance, stating "[t]hat's a criminal act that is similar in nature [to] the present case in that it consists of [Lloyd] taking something that doesn't belong to [him]." Tr. p. 56. The trial court found Lloyd's guilty plea to be a mitigating circumstance. After balancing the circumstances, the trial court found that the aggravating circumstance outweighed the mitigating circumstance and sentenced Lloyd to fifteen years with five years suspended to probation. Lloyd now appeals.

[1] Ind. Code § 35-42-5-1.

DISCUSSION AND DECISION

In addressing Lloyd's challenge to the appropriateness of his sentence,[2] we initially note that our court has the constitutional authority to revise a sentence if, after due consideration of the trial court's decision, we find that the sentence is "inappropriate in light of the nature of the offense and the character of the offender." Ind. Appellate Rule 7(B). However, sentence review under Appellate Rule 7(B) is very deferential to the trial court's decision, Martin v. State, 784 N.E.2d 997, 1013 (Ind. Ct. App. 2003), and we refrain from merely substituting our judgment for that of the trial court, Foster v. State, 795 N.E.2d 1078, 1092 (Ind. Ct. App. 2003). The burden is on the defendant to persuade us that his sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

Regarding the nature of the offense, Lloyd walked into a bank, feigned interest as a new customer, and used a handgun to induce a bank teller to give him money. While these may be, as the State notes, "rather ordinary circumstances for robbery," appellee's br. p. 3, they do not strengthen Lloyd's argument that his sentence is inappropriate based on the nature of his offense.

As for Lloyd's character, he argues that his limited criminal history, guilty plea, and willingness to assist his parents with their medical problems illustrate his good character and render the trial court's sentence inappropriate. Nevertheless, Lloyd's previous conversion conviction and current robbery conviction illustrate a pattern of disrespect for authority and the property of others, exposing the true nature of Lloyd's character. As the trial court noted,

"[e]ven after being sentenced [for the conversion conviction,] you did not learn but committed the act that you're being sentenced for today." Tr. p. 56. Based on the nature of the offense and his character, we cannot conclude that Lloyd's sentence was inappropriate.

The judgment of the trial court is affirmed.

DARDEN, J., and ROBB, J., concur.

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[2] Indiana Code section 35-50-2-5 provides that a person convicted of a class B felony "shall be imprisoned for a fixed term of ten (10) years, with not more than ten (10) years added for aggravating circumstances or not more than four (4) years subtracted for mitigating circumstances."